

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

VICKI SHERIDAN,

Plaintiff,

vs.

KUHNS KARE, INC.,

Defendant.

4:18CV3089

ORDER

Plaintiff has moved to amend her complaint to add an additional party, Monica Kuhns—the person who allegedly made the decision to terminate Plaintiff’s employment. (Filing No. 15). Defendant opposes the motion.

The deadline for amending pleadings and adding parties was August 24, 2018. (Filing No. 8, ¶ 5). Plaintiff’s motion to amend was untimely filed on September 23, 2018.

Pursuant to Rule 16(b)(4), a case management order “may be modified only for good cause and with the judge's consent.” [Fed. R. Civ. P. 16\(b\)\(4\)](#). The movant's level of diligence and the degree of prejudice to the parties are both factors to consider when assessing if good cause warrants extending a case management deadline, with the movant’s diligence being the first consideration and the extent of prejudice to either party considered only after the movant makes a showing of due diligence. [Sherman v. Winco Fireworks, Inc., 532 F.3d 709, 716-17 \(8th Cir. 2008\)](#); [Marmo v. Tyson Fresh Meats, Inc., 457 F.3d 748, 759 \(8th Cir. 2006\)](#).

Plaintiff has not explained why she was unable to identify Kuhns as a potential defendant, and move to amend her complaint accordingly, on or before August 24, 2018. Absent any threshold showing of due diligence, the court will not consider the issue of prejudice.

October 9, 2018.

IT IS ORDERED that Plaintiff's motion to amend, (Filing No. 15), is denied.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge